

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**F.H., Appellant**

**and**

**DEPARTMENT OF DEFENSE, DEFENSE  
ENTERPRISE COMPUTING CENTER  
SAN ANTONIO, San Antonio, TX, Employer**

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**Docket No. 08-2071  
Issued: June 19, 2009**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

DAVID S. GERSON, Judge  
COLLEEN DUFFY KIKO, Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On July 21, 2008 appellant filed a timely appeal from a March 27, 2008 merit decision of the Office of Workers' Compensation Programs denying compensation and a June 5, 2008 nonmerit decision of the Branch of Hearings and Review denying her request for an oral hearing. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

**ISSUES**

The issues are: (1) whether appellant established that her intermittent periods of disability from July 5 through August 15, 2006 were due to physical therapy treatments for the effects of her accepted carpal tunnel syndrome; and (2) whether the Branch of Hearings and Review properly denied her request for an oral hearing as untimely.

**FACTUAL HISTORY**

On June 12, 2002 appellant, then a 52-year-old computer analyst programmer, filed an occupational disease claim (Form CA-2) alleging that she sustained carpal tunnel syndrome due

to the typing required by her employment duties. On April 20, 2002 she began experiencing pain and cramping in her hands that moved up her arm. By May 16, 2002 appellant's hands were swollen and painful and she could not hold a pencil, start her car or shift into gear.<sup>1</sup> On October 25, 2002 the Office accepted her claim for right carpal tunnel syndrome and authorized medical treatment.<sup>2</sup>

On February 20, 2003 appellant underwent a right carpal tunnel release and right carpi radialis tendon steroid injection.

Appellant submitted medical reports dated February 7 through May 18, 2005 from her treating physician, Dr. Chaula J. Rana, Board-certified in physical therapy and medicine rehabilitation. On February 7, 2005 Dr. Rana discussed appellant's history of bilateral carpal tunnel syndrome. Appellant reported that after her first surgery she had triggering on her thumb, which temporarily went away but now locks up and causes pain. She related that she could not work full days of typing and writing, driving long distances, handling, lifting, tightening or unscrewing objects or carry heavy objects. Dr. Rana diagnosed stable carpal tunnel syndrome and ongoing tenosynovitis, contracture, muscle pain, spasms and trigger finger. She prescribed occupational therapy to restore appellant's bilateral upper extremity use and to treat her trigger thumb, left wrist contracture and left cervical pain. Dr. Rana prescribed continuing therapy on March 4, 2005.

In an April 6, 2005 medical report, Dr. Rana related appellant's claims that she finished therapy on March 18, 2005 but that she was still having trouble bending her thumb and that her symptoms were worsened by keyboard, bedtime and writing and that she could not open containers or write or type for long periods. Physical examination revealed symmetrical and normal strength testing, except for weak grip strength on both sides. Dr. Rana stated that appellant had bilateral carpal tunnel syndrome that had improved with therapy and that she was experiencing a better range of motion and less discomfort. She noted that appellant did not wish to proceed with surgical options.

In a medical report dated May 18, 2005, Dr. Rana stated that appellant was experiencing recurrent symptoms associated with her carpal tunnel syndrome, including numbness and tingling. She noted appellant's complaints of worsening symptoms in her right hand. Dr. Rana recommended an electromyogram and referred appellant to a hand surgeon for her trigger thumb and possible recurrence of carpal tunnel syndrome.

On June 15, 2005 appellant was referred for an electrodiagnostic consultation. A diagnostic examination revealed a normal study with no electrodiagnostic evidence of a right upper extremity cervical radiculopathy or focal median, ulnar or radial neuropathy.

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<sup>1</sup> The Office initially denied appellant's claim by decision dated July 29, 2002 on the grounds that she did not submit medical evidence containing a diagnosis which could be connected to her employment.

<sup>2</sup> It appears the Office also accepted left carpal tunnel syndrome, as it authorized a left carpal tunnel release and stated that it accepted bilateral carpal tunnel syndrome in a December 14, 2004 letter.

On April 11, 2006 Dr. Rana prescribed four more weeks of therapy for appellant's bilateral carpal tunnel syndrome, myofascial pain and trapezius spasms. On June 18, 2006 she prescribed three more weeks of therapy for myofascial pain and upper trapezius spasms.

On September 20, 2006 appellant filed a claim for wage-loss compensation (Form CA-7) for intermittent periods from July 5 through August 15, 2006. In a time analysis form (CA-7a) she advised that she used 18.15 hours of leave without pay for physical therapy appointments during this period.

By letter dated September 28, 2006, the Office notified appellant that she was required to provide medical evidence of her physical therapy appointments before she could receive wage-loss compensation.

Appellant submitted therapy notes dated April 27 through August 15, 2006. An exercise flow sheet signed by a therapist indicated that appellant had attended several occupational therapy appointments from June 1 through August 15, 2006. In a note dated August 15, 2006, a therapist described appellant's progress and stated that she had met all of her short-term goals, including a decrease in myofascial restrictions in cervical groups, increased cervical stability, reduction in myofascial restriction in the forearms and an increase in bilateral grip strength and functional endurance.

By decision dated March 27, 2008, the Office denied appellant's request for wage-loss compensation from July 5 through August 15, 2006 on the grounds that she did not submit sufficient medical evidence establishing that she received physical therapy treatment on the dates claimed.

On May 2, 2008 appellant filed a request for a review of the written record by the Branch of Hearings and Review.

By decision dated June 5, 2008, the Branch of Hearings and Review denied appellant's request for a review of the written record, finding that the request was not filed within 30 days. It also determined that the issue could be addressed equally well through a request for reconsideration on the merits.

### **LEGAL PRECEDENT**

Section 8103 of the Federal Employees' Compensation Act states in pertinent part that the United States shall furnish to an employee who is injured while in the performance of duty the services, appliances and supplies prescribed or recommended by a qualified physician, which the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of disability or aid in lessening the amount of the monthly compensation.<sup>3</sup> The Board has interpreted this section to authorize payment for loss of wages incurred while obtaining medical

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<sup>3</sup> 5 U.S.C. § 8103.

services.<sup>4</sup> Accordingly, an employee is entitled to disability compensation for loss of wages incidental to treatment for an employment injury.<sup>5</sup>

### ANALYSIS

The Office accepted that appellant sustained bilateral carpal tunnel syndrome due to her employment factors. The issue is whether she established that she was undergoing medical treatment intermittently from July 5 through August 15, 2006 for this condition.

Appellant underwent an authorized right carpal tunnel release and right carpi radialis tendon steroid injection on February 20, 2003. In medical notes dated February 7 through May 18, 2005, Dr. Rana noted ongoing symptoms of bilateral carpal tunnel syndrome and referred appellant to occupational therapy for restoration of her bilateral upper extremity use. She continued therapy through June 8, 2006 for treatment of appellant's bilateral carpal tunnel syndrome, trapezius spasms and myofascial pain.

Appellant submitted physical therapy notes for the period April 27 through August 15, 2006. An exercise flow sheet signed by a therapist showed that appellant had attended several appointments from June 1 through August 15, 2006. On August 15, 2006 a therapist noted that appellant had met all of her short-term goals.

The Board finds that appellant was receiving medical services intermittently from July 5 through August 15, 2006 related to her employment-related carpal tunnel syndrome. The exercise flow sheet certified that she attended occupational therapy sessions intermittently throughout the claimed period of time. Further, the medical reports from Dr. Rana and the August 15, 2006 physical therapy note establish that the therapy sessions were related to the accepted work injury.<sup>6</sup> Dr. Rana prescribed physical therapy in treatment of appellant's carpal tunnel syndrome through 2005. She referred appellant to occupational therapy to increase the use of her upper extremity and to treat her bilateral carpal tunnel syndrome through June 18, 2006. The August 15, 2006 therapy note states that appellant met her immediate therapy goals, which included increasing grip strength and function use of her upper extremities.

The Board finds that appellant established that she was attending therapy sessions intermittently during the period July 5 through August 15, 2006 due to the effects of her employment-related carpal tunnel syndrome. The Office should authorize compensation for the 18.15 hours of claimed leave without pay.<sup>7</sup>

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<sup>4</sup> *Dorothy J. Bell*, 47 ECAB 624 (1996); *Henry Hunt Searls, III*, 46 ECAB 192 (1994).

<sup>5</sup> *Daniel Hollars*, 51 ECAB 355 (2000).

<sup>6</sup> Appellant is entitled to compensation for those hours of leave without pay that are shown to have been taken for treatment for the effects of the accepted employment-related conditions. *Daniel Hollars*, *supra* note 5.

<sup>7</sup> See also *Myrtle B. Carlson*, 17 ECAB 644 (1966); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Computing Compensation*, Chapter 2.0901.16(a) (December 1995).

**CONCLUSION**

The Board finds that appellant established that she was prescribed physical therapy from July 5 through August 15, 2006 for treatment of her right carpal tunnel syndrome.<sup>8</sup>

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 5 and March 27, 2008 decisions of the Office of Workers' Compensation Programs are set aside. The case is remanded to the Office for further action in accordance with this decision.

Issued: June 19, 2009  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>8</sup> In light of the Board's disposition of the first issue, the second issue is moot.